

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROGER W. GRIFFITH and DEPARTMENT OF THE JUSTICE,
U.S. ATTORNEY'S OFFICE, Oklahoma City, OK

*Docket No. 01-1368; Submitted on the Record;
Issued May 9, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant's cardiac condition is causally related to factors of his federal employment.

In the prior appeal of this case,¹ the Board found that the opinion of the referee medical specialist, Dr. William A. Collazo, a Board-certified cardiologist, required clarification. Dr. Collazo reported that appellant's condition in December 1995 appeared to be the result of the natural progression of his cardiac disease rather than an aggravation or acceleration of his disease due to events between April 19 and May 11, 1995 that were noted in the statement of accepted facts.² He expressed no doubt that emotional and physically stressful activities during that time would have lead to a temporary aggravation of appellant's cardiac condition and clearly appellant was suffering active cardiac symptoms at that time; however, he was unable to find any medical corroboration of these symptoms from April through November 1995. Dr. Collazo concluded that it seemed more scientifically rational to explain appellant's current cardiac state and the decompensation with rhythm disorder noted in December 1995 and January 1996, as a consequence of the natural progression of cardiac disease.

Dr. Collazo reported, however, that appellant's employment circumstances appeared to play "a limited role with regards to his organic cardiac disease." The Board noted that this was important to the resolution of the issue in this case, as any contribution of employment factors is sufficient to establish the element of causal relationship.³ Because Dr. Collazo did not explain the limited role that employment circumstances appeared to play in appellant's organic cardiac disease, the Board found that further development of the medical evidence was warranted to

¹ Docket No. 98-1080 (issued May 2, 2000). The facts of this case are set forth in the Board's prior decision and are hereby incorporated by reference.

² These events relate to the Oklahoma City bombing on April 19, 1995.

³ *Beth P. Chaput*, 37 ECAB 158 (1985).

clarify the matter. The Board remanded the case for a supplemental report from Dr. Collazo addressing whether the events of April 1995 had any effect whatsoever on appellant's cardiac condition, the nature of that effect and its apparent duration. The Board noted that Dr. Collazo should also explain how the absence of reported cardiac symptoms or complaints between April and December 1995 is consistent with the natural progression of cardiac disease and if it is not, whether it remains medically reasonable to view this absence as negating any contribution by the events of April 1995.

On November 17, 2000 the Office of Workers' Compensation Programs requested a supplemental report from Dr. Collazo and provided him an amended statement of accepted facts. The Office accepted that appellant was having difficulty dealing with the stresses associated with litigation following his demotion from civil chief to line attorney on May 30, 1995.

In a report dated November 22, 2000, Dr. Collazo offered the following clarification:

"I do not believe there is any objective evidence to support that the events from April through May 1995 had a definite impact on [appellant's] cardiac condition. While he admitted to some degree of symptoms, which could be construed as early congestive heart failure, there was no documentation on the communication notes noted between [appellant] and his physicians during that time. It was not until December 1995 that his symptoms of congestive heart failure became noted and particularly that which led to his cardiac catheterization in January 1996.

"My original statement that his cardiac disease was a result of a 'natural progression' was simply based on the fact that most cardiomyopathies have an insidious development. On the other hand, it may be that his cardiomyopathy did not develop until the time of his symptoms, which would make it even more likely that his disease is not related to the events between April and May 1995.

"It is still not clear to me why there could be any thought that his cardiac condition was actually brought on by the events from the dates in question. [Appellant] has all the risk factors that have been associated with people who develop congestive heart failure, much less may have had the unfortunate contribution from a viral process, which often is difficult to document.

"There is no doubt that the events between April and May 1995 have left an indelible mark on [appellant's] psyche. He would benefit from a long-term process of psychiatric/psychological counseling to help with the psychological adjustment. However, I see no basis for [appellant] to believe that his cardiac conditions stem from these events. It may be reasonable to consider a psychiatric opinion on this matter, as this is outside the scope of my expertise."

In a decision dated January 9, 2001, the Office denied appellant's occupational disease claim. The Office found that Dr. Collazo's opinion represented the weight of the medical evidence and established that appellant's cardiac condition was not causally related to his federal employment.

The Board finds that the weight of the medical evidence fails to establish that appellant's cardiac condition is causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.⁵

The Office accepts that appellant experienced a specific event, incident or exposure occurring at the time place and in the manner alleged. The Office's findings are incorporated in the statement of accepted facts as "incidents that occurred while in the performance of duty and are accepted as being factors of employment." The question for determination is whether these compensable and established factors of employment caused an injury.

Causal relationship is a medical issue⁶ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁷ must be one of reasonable medical certainty⁸ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁹

When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to a referee medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.¹⁰

The Board finds that the opinion of the referee medical specialist, Dr. Collazo, is based upon a proper factual background and is sufficiently well rationalized that it must be given special weight in resolving the conflict in this case. Dr. Collazo explained that appellant's condition in December 1995 appeared to be the result of the natural progression of his cardiac disease rather than an aggravation or acceleration due to the accepted factors of employment. It

⁴ 5 U.S.C. §§ 8101-8193.

⁵ See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5 (1999) ("traumatic injury" and "occupational disease or illness" defined).

⁶ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁷ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁹ See *William E. Enright*, 31 ECAB 426, 430 (1980).

¹⁰ *Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980).

appeared more likely that acquired medical diseases, such as hypertension, diabetes and dyslipidemia, as well as previous viral infections, had been coupled with appellant's congenital heart defect and its sequel. There was no objective evidence to support that the events of April and May 1995 had a definite impact on appellant's cardiac condition. Dr. Collazo could find no medical corroboration of active cardiac symptoms from April through November 1995. It was not until December 1995 that appellant's symptoms of congestive heart failure became noted. This was either an insidious development typical of cardiomyopathies or a cardiomyopathy that did not develop until the time of appellant's symptoms, which would make it even more likely that the disease was unrelated to the events of April and May 1995.

Dr. Collazo further explained that appellant had all the risk factors associated with people who develop congestive heart failure. While the events of April and May 1995 no doubt left an indelible mark on appellant's psyche, Dr. Collazo saw no basis to believe that appellant's cardiac conditions stemmed from these events.

Because the weight of the medical opinion evidence negates the critical element of causal relationship, the Board finds that appellant has not met his burden of proof to establish that his cardiac condition is causally related to factors of his federal employment.¹¹

The January 9, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
May 9, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

¹¹ Whether appellant sustained an emotional condition as a result of his federal employment remains, it appears, an outstanding issue following the December 31, 1997 decision of the Office hearing representative.